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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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02/221,655

05/29/99

GERSON

0

640100-014

HM22/1204

ELLIOT M. OLSTEIN ESQ  
C/O CARELLA MYRNE BAIN GILFILLAN  
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EXAMINER

NGUYEN, H

ART UNIT

PAPER NUMBER

1532

DATE MAILED:

6  
12/11/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

RECEIVED:	12/11/00
DATE ENTERED:	
Check status on prosecution suspension in about 6 mos.	
FILED BY:	hm
	12/11

**Notice of Allowability**

Application No.

09/321,655

Applicant(s)

GERSON, STANTON L.

Examiner

Art Unit

Quang Nguyen, Ph.D.

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a ~~Notice of Allowance (PTOL-85)~~ or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 2-5.
3. ☒ The drawings filed on 5/29/1999 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
(a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_.  
(b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_, which has been approved by the Examiner.  
(c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 1 ☐ Notice of References Cited (PTO-892)  
3 ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
5 ☐ Information Disclosure Statements (PTO-1449), Paper No. \_\_\_\_  
7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 2 ☐ Notice of Informal Patent Application (PTO-152)  
4 ☒ Interview Summary (PTO-413), Paper No. 7  
6 ☒ Examiner's Amendment/Comment  
8 ☒ Examiner's Statement of Reasons for Allowance  
9 ☒ Other SUSPENSION LETTER.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Raymond J. Lillie on November 28, 2000.

The application has been amended as follows:

#### THE CLAIMS:

Claim 5 has been amended as follows:

A method for [transducing] transforming hematopoietic progenitor cells to express a protein, comprising co-culturing human hematopoietic progenitor cells with isolated human mesenchymal stem cells, and [transducing] transforming the human hematopoietic progenitor cells with a polynucleotide comprising exogenous genetic material encoding a protein in the presence of the isolated human mesenchymal stem cells, wherein said protein is expressed.

#### REASONS FOR ALLOWANCE:

The following is an examiner's statement of reasons for allowance: The amendments to the claims and Applicant's argument to the unobviousness of the claimed method have overcome the rejections of record. The prior art of record does not teach or fairly suggest a method for transforming hematopoietic progenitor cells to

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express a protein comprising co-culturing human hematopoietic progenitor cells with isolated human mesenchymal stem cells, and transforming the human hematopoietic progenitor cells with a polynucleotide comprising exogenous genetic material encoding a protein in the presence of the isolated human mesenchymal stem cells, wherein said protein is expressed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang Nguyen, Ph.D., whose telephone number is (703) 308-8339.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's mentor, Deborah Crouch, Ph.D., may be reached at (703) 308-1126, or SPE, Karen Hauda, at (703) 305-6608.

Any inquiry of a general nature or relating to the status of this application should be directed to Patent Analyst, Patsy Zimmerman, whose telephone number is (703) 305-2758.

**To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1632.**

Papers related to this application may be submitted to Group 160 by facsimile transmission. Papers should be faxed to Group 160 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is or (703) 305-3014 or (703) 308-4242.



**DAVE T. NGUYEN**  
**PRIMARY EXAMINER**

Quang Nguyen, Ph.D.



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/321655	05/28/99	Gerson	640100-304

EXAMINER
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ART UNIT	PAPER NUMBER
1632	7

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

All claims are allowable. However, due to a potential interference, *ex parte* prosecution is suspended from the mailing date of this letter. Attached is the Examiner's amendment (Paper No. 6).

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*Deborah Crouch*  
DEBORAH CROUCH  
PRIMARY EXAMINER  
GROUP 1800/630

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*Deborah Crouch*

DEBORAH CROUCH  
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GROUP 1800/1630

Quang Nguyen, Ph.D.